

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
LAFAYETTE DIVISION

FILED

Brian Fausset,
Plaintiff
vs.
H. H. GREGG,
Defendant

2011 DEC 28 PM 1:45
STEPHEN R. LUDWIG, CLERK
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA
Case Number 4:11-cv-00068

EMPLOYMENT DISCRIMINATION COMPLAINT

Plaintiff brings a complaint against defendant H. H. GREGG for discrimination as set forth below.

Plaintiff X DOES ___ DOES NOT (indicate which) demand a jury trial.

I. PARTIES

Plaintiff's	Name	Brian Fausset
	Address	411 South Mills Street Brookston, IN 47923
	Phone Number	(765) 427-5371
Defendant's	Name	H. H. GREGG
	Address	2345 Sagamore Parkway Lafayette, IN 47905

II. BASIS OF CLAIM AND JURISDICTION

1. This complaint is brought pursuant to:

___ Title VII of the Civil Rights Act of 1964, as amended, and jurisdiction is based on 42 U.S.C. §2000e-5 and 28 U.S.C. §1331;

___ The Age Discrimination in Employment Act (29 U.S.C. § 621), and jurisdiction is based on 28 U.S.C. § 1331;

X The Americans with Disabilities Act (42 U.S.C. § 12101), and jurisdiction is based on 28 U.S.C. § 1331;

___ The Rehabilitation Act (29 U.S.C. § 701, et seq.), and jurisdiction is based on 28 U.S.C. § 1331;

___ Equal rights under law (42 U.S.C. § 1981), and jurisdiction is based on

28 U.S.C. § 1331;

___ Other (list):

2. Plaintiff X DID ___ DID NOT timely file a charge of discrimination with the Equal Employment Opportunity Commission or the Indiana Civil Rights Commission.
3. Plaintiff's Right to Sue Notice from the Equal Employment Opportunity Commission or the Indiana Civil Rights Commission was received on or about September 29, 2011.

III. STATEMENT OF LEGAL CLAIM

Plaintiff is entitled to relief in this action because:

Plaintiff believes to have been denied a reasonable accommodation and Plaintiff's employment terminated in violation of the Americans with Disabilities Act, as amended.

IV. FACTS IN SUPPORT OF COMPLAINT

The facts on which this complaint is based are the following:

Plaintiff began employment with H. H. Gregg on December 22, 2008 as a Warehouse employee. On or around March 2009, Plaintiff made the General Manager aware of Plaintiff's medical condition. Throughout the course of Plaintiff's employment, the Operations Manager, Bryan Harlow, was also aware of Plaintiff's medical condition. Plaintiff attempted on numerous occasions to ask for a schedule change, and denied each time. Plaintiff was not provided with a reasonable accommodation. On August 31, 2009, Plaintiff was called into a meeting by both managers above and written for a disciplinary action which involved .25 hour of overtime. At this time, Plaintiff did not resign. After numerous e-mails to the company and corporate, Plaintiff was told that Plaintiff voluntarily terminated Plaintiff's employment which Plaintiff did not.

V. PRAYER FOR RELIEF

Based on the foregoing, plaintiff seeks the following relief:

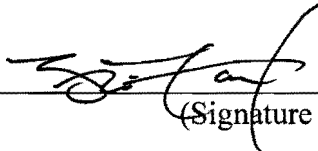
- A. Awarding all lost wages Plaintiff has sustained or will sustain as a result of the Defendants' conduct;
- B. Awarding prejudgment interest;
- C. Awarding compensatory damages in an amount to be determined by a jury to make Plaintiff whole for the mental anguish, emotional distress and other non-pecuniary damages he has suffered because of the Defendant's unlawful conduct;
- D. Awarding punitive damages in an amount to be determined by a jury to punish the Defendants for their unlawful conduct which was malicious or undertaken with reckless indifference to Plaintiff's rights and to deter others from similar conduct;

- E. Awarding the costs of maintaining this action, including an award of reasonable attorneys' fees; and
- F. Awarding all other relief proper in the premises.

VI. AFFIRMATION OF PLAINTIFF

I, Brian Fausset, the plaintiff in the aforementioned cause, do affirm that I have read all of the statements contained in the complaint and those which are attached in accompanying financial statement. I believe them to be, to the best of my personal knowledge, true and correct.

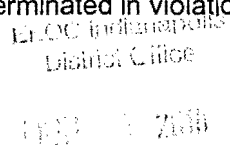
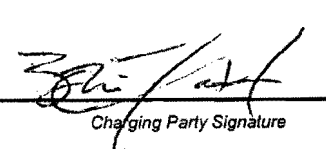
Further, I do understand that this complaint and this affidavit will become an official part of the United States District Court files and that ANY FALSE STATEMENTS knowingly made by me are illegal and may subject me to criminal penalties.



(Signature of Plaintiff)

December 27, 2011
(Date)

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: _____ Agency(ies) Charge No(s): 470-2010-02525 <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
Indiana Civil Rights Commission and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) Brian Fausset		Home Phone (Incl. Area Code) (765) 427-5371	Date of Birth
Street Address City, State and ZIP Code 411 South Mills Street, Brookston, IN 47923			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name H. H. GREGG		No. Employees, Members 101 -200	Phone No. (Include Area Code) (765 447-5031
Street Address City, State and ZIP Code 2345 Sagamore Parkway, Lafayette, IN 47905			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) _____		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 08-31-2009 08-31-2009 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I began my employment with H. H. Gregg on 12/22/08 as a Warehouse employee. On or March 2009, I made the General Manager aware of my medical condition. Throughout the course of my employment the Operations Manager, Brian Harlow was also aware of my medical condition. I attempted on numerous occasions to ask for a schedule change, and denied each time. I was not provided with a reasonable accommodation. On 8/31/09 I was called into a meeting by both managers above and written for a disciplinary action which involved .25 hr of overtime. At this time I did not resign. After numerous e-mails to the company and corporate, I was told that I voluntarily terminated my employment which I did not.</p> <p>I believe I have been denied a reasonable accommodation and my employment terminated in violation of the Americans with Disabilities Act, as amended.</p> <div style="text-align: right; margin-top: 10px;">  </div>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
Jun 11, 2010 Date		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
 Charging Party Signature			



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Indianapolis District Office

101 West Ohio Street, Suite 1900
Indianapolis, IN 46204-4203
Intake Information Group: (800) 669-4000
Intake Information Group TTY: (800) 669-6820
Indianapolis Status Line: (866) 408-8075
Indianapolis Direct Dial: (317) 226-7848
TTY (317) 226-5162
FAX (317) 226-7953 & 5571

SEP 28 2011

Mr. Brian Fausset
411 South Mills
Brookston, IN 47923

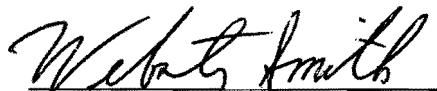
Re: Brian Fausset v. H. H. Gregg
EEOC Charge Number 470-2010-02525

Dear Mr. Fausset,

The Commission has determined that it will not bring a lawsuit against the above named Respondent. The issuance of the enclosed Notice of Right to Sue under the Americans with Disabilities Act of 1990, as amended, concludes the processing of your charge by the Commission. If you decide to sue, you must file a lawsuit in Federal District Court **within 90 days of receipt** of this letter and Notice of Right to Sue.

If you file suit, please forward a copy of your court complaint to this office within 10 days. We can then preserve your file and consider your suit when taking other actions. If you have any questions regarding the legal remedies available to you as set out above, please contact the EEOC representative listed in the enclosed Notice of Right to Sue.

On Behalf of the Commission:


Webster N. Smith
District Director

EEOC Form 161-A (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE
(CONCILIATION FAILURE)To: **Brian Fausset**
411 South Mills Street
Brookston, IN 47923From: **Indianapolis District Office**
101 West Ohio St
Suite 1900
Indianapolis, IN 46204On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
470-2010-02525	Randy G. Poynter, Enforcement Supervisor	(317) 226-5670

TO THE PERSON AGGRIEVED:

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

- NOTICE OF SUIT RIGHTS -


(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



SEP 28 2011

Enclosures(s)

Webster N. Smith,
District Director

(Date Mailed)

cc: **Johane J. Domersant**
Baker & Daniels, LLP
300 North Meridian Street, Suite #2700
Indianapolis, IN 46204-1782

Enclosure with EEOC
Form 161-A (11/09)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 -- not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.